

**DEPARTMENT OF STATE REVENUE****LETTER OF FINDINGS NUMBER: 99-0207 ITC  
International Fuel Tax Agreement (IFTA)  
For Years 1993, 1994, AND 1995**

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**ISSUES****I. IFTA – Sufficiency of documentation**

**Authority:** IFTA.VIII.B; IFTA.VI.A.3

The taxpayer protested the auditor's rejection of new fuel tax records prepared and submitted by taxpayer after an IFTA audit assessment was made based on taxpayer's original invoices.

**II. IRP – Sufficiency of documentation**

**Authority:** IRP Article XVII.1702; IC § 6-8.1-5-1; IC§ 6-8.1-5-4

The taxpayer protested the auditor's rejection of new mileage records prepared and submitted by taxpayer after an IRP audit assessment was made based on taxpayer's original invoices.

**STATEMENT OF FACTS**

Taxpayer was assessed tax as a result of an IFTA and IRP audit covering the period between July 1, 1992 to June 30, 1995. During the original audit, the taxpayer indicated the records were incomplete because they could not afford to pay their drivers well and consequently the taxpayer was reluctant to require them to fill out lots of paperwork. The taxpayer requested and received permission to review their computer data base and prepare and submit records to support a reduction in the assessment. Taxpayer's new records were reviewed, but the reduction of the assessment was denied. The auditor noted that the new records were selections from a computer printout and were

incomplete, inasmuch as they consisted of a sequentially numbered printout with pages missing. Additionally, the total mileage and gallons used presented by taxpayer amounted to less than the total mileage and gallons in the original audit- in some cases the fuel purchases did not have corresponding mileage recorded, in some cases the units had miles, but no fuel was purchased. Three vehicles showed fuel, however no miles were reported for these units. Taxpayer requested a hearing based on the rejection of these records.

**I. IFTA – Sufficiency of documentation**

**DISCUSSION**

The department, representing a member jurisdiction of IFTA, requested taxpayer records pursuant to IFTA.VIII.B requirements:

Every licensee shall preserve the records for a period of four years from the due date of the return or the date filed, whichever is later. Such records shall be made available upon request by any member jurisdiction.

Taxpayer indicated that his drivers did not keep complete records due to taxpayer's inability to pay a competitive wage. While reduced duties for reduced pay is logical, the above statute requires maintenance of books in a form amenable to review by the department for tax liability. In the initial audit, the records available consisted of invoices which the auditor reviewed to determine the taxpayer's liability. After the assessment, taxpayer submitted new records to establish lower fuel consumption with a correspondingly lower assessment. IFTA.VI.A.3 states in relevant part:

The assessment made by a base jurisdiction pursuant to this procedure shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden shall be on the licensee to establish by a fair preponderance of evidence that the assessment is erroneous or excessive.

Taxpayer's submission of new information was a computer printout that was missing pages and, when compared to the original taxpayer records, indicated a total that could not logically reconcile with the original audit data or with itself. An incomplete and internally inconsistent record is not sufficient to overcome the original assessment against taxpayer.

Taxpayer argues that the expense of maintaining the required records was onerous for a new business, however taxpayer cites no law in support of this assertion. Taxpayer's initial failure to comply with the requirements presented in IFTA.VIII.B required an assessment by the department on the best available information. Taxpayer then failed to create a credible record to refute an audit based -essentially- on taxpayer's own records.

## **FINDINGS**

Taxpayer's appeal is denied.

## **II. IRP – Sufficiency of documentation**

### **DISCUSSION**

IRP Article XVII.1702 states:

Assessments based on audit, interest on assessments, refunds, or credits or any other amounts including auditor's per diem and travel shall be made in accordance with the statute of each jurisdiction involved with the audit of a registrant.

Accordingly, the department, representing a member jurisdiction of IRP, requested taxpayer records pursuant to IC § 6-8.1-5-4 requirements:

Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records.

Taxpayer indicated that his drivers did not keep complete records due to taxpayer's inability to pay a competitive wage. While reduced duties for reduced pay is logical, the above statute requires maintenance of books in a form amenable to review by the department for tax liability. In the initial audit, the records available consisted of invoices which the auditor reviewed to determine the taxpayer's liability. After the assessment, taxpayer submitted new records to establish lower mileage with a correspondingly lower assessment. Applying the Indiana statute per IRP Article XVII.1702; IC § 6-8.1-5-1 states in relevant part:

The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid, and the burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.

Taxpayer's submission of new information was a computer printout that was missing pages and, when compared to the original taxpayer records, indicated a total that could not logically reconcile with the original audit data or with itself. An incomplete and internally inconsistent record is not sufficient to overcome the original assessment against taxpayer.

Taxpayer argues that the expense of maintaining the required records was onerous for a new business, however taxpayer cites no law in support of this assertion. Taxpayer's initial failure to comply with the requirements presented in IC § 6-8.1-5-4 required an assessment by the department on the best available information. Taxpayer then failed to create a credible record to refute an audit based -essentially- on taxpayer's own records.

### **FINDINGS**

Taxpayer's appeal is denied.